
HOUSE BILL 2975

State of Washington 60th Legislature 2008 Regular Session

By Representatives Chandler and Condotta

Read first time 01/18/08. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to use of agency shop fees; amending RCW 42.17.760,
2 28B.52.045, 41.76.045, 41.59.100, 41.80.100, 47.64.160, 41.56.113, and
3 41.56.122; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that it is a
6 substantial government interest to:

7 (1) Balance employees' right to freedom from compelled speech with
8 the bargaining unit representatives' ability to collect dues and fees
9 for purposes germane to the collective bargaining process or to
10 contract administration; and

11 (2) Assure that bargaining representatives do not shift a
12 disproportionate share of the costs of collective bargaining to
13 dissenters, which has the effect of applying his or her money to
14 support compelled speech.

15 **Sec. 2.** RCW 42.17.760 and 2007 c 438 s 1 are each amended to read
16 as follows:

17 ((+1)) A labor organization that collects agency shop fees in
18 excess of a pro rata share of expenditures for purposes germane to the

1 collective bargaining process, contract administration, or for matters
2 affecting wages, hours, and other conditions of employment may not use
3 agency shop fees paid by an individual who is not a member of the
4 organization to make contributions or expenditures to influence an
5 election or to operate a political committee, unless affirmatively
6 authorized by the individual.

7 ~~((2) A labor organization does not use agency shop fees when it
8 uses its general treasury funds to make such contributions or
9 expenditures if it has sufficient revenues from sources other than
10 agency shop fees in its general treasury to fund such contributions or
11 expenditures.))~~

12 **Sec. 3.** RCW 28B.52.045 and 1987 c 314 s 8 are each amended to read
13 as follows:

14 (1) Upon filing with the employer the voluntary written
15 authorization of a bargaining unit employee under this chapter, the
16 employee organization which is the exclusive bargaining representative
17 of the bargaining unit shall have the right to have deducted from the
18 salary of the bargaining unit employee the periodic dues and initiation
19 fees uniformly required as a condition of acquiring or retaining
20 membership in the exclusive bargaining representative. Such employee
21 authorization shall not be irrevocable for a period of more than one
22 year. Such dues and fees shall be deducted from the pay of all
23 employees who have given authorization for such deduction, and shall be
24 transmitted by the employer to the employee organization or to the
25 depository designated by the employee organization.

26 (2) A collective bargaining agreement may include union security
27 provisions, but not a closed shop. If an agency shop or other union
28 security provision is agreed to, the employer shall enforce any such
29 provision by deductions from the salary of bargaining unit employees
30 affected thereby and shall transmit such funds to the employee
31 organization or to the depository designated by the employee
32 organization.

33 (3) The amount of the funds collected under a union security
34 provision shall not exceed a pro rata share of expenditures for
35 purposes germane to the collective bargaining process, contract
36 administration, or for matters affecting wages, hours, and other

1 conditions of employment. Determination of the share of the fee shall
2 be documented for the nonmember using historical data.

3 (4) An employee who is covered by a union security provision and
4 who asserts a right of nonassociation based on bona fide religious
5 tenets or teachings of a church or religious body of which such
6 employee is a member shall pay to a nonreligious charity or other
7 charitable organization an amount of money equivalent to the periodic
8 dues and initiation fees uniformly required as a condition of acquiring
9 or retaining membership in the exclusive bargaining representative.
10 The charity shall be agreed upon by the employee and the employee
11 organization to which such employee would otherwise pay the dues and
12 fees. The employee shall furnish written proof that such payments have
13 been made. If the employee and the employee organization do not reach
14 agreement on such matter, the commission shall designate the charitable
15 organization.

16 **Sec. 4.** RCW 41.76.045 and 2002 c 356 s 12 are each amended to read
17 as follows:

18 (1) Upon filing with the employer the voluntary written
19 authorization of a bargaining unit faculty member under this chapter,
20 the employee organization which is the exclusive bargaining
21 representative of the bargaining unit shall have the right to have
22 deducted from the salary of the bargaining unit faculty member the
23 periodic dues and initiation fees uniformly required as a condition of
24 acquiring or retaining membership in the exclusive bargaining
25 representative. Such employee authorization shall not be irrevocable
26 for a period of more than one year. Such dues and fees shall be
27 deducted from the pay of all faculty members who have given
28 authorization for such deduction, and shall be transmitted by the
29 employer to the employee organization or to the depository designated
30 by the employee organization.

31 (2) A collective bargaining agreement may include union security
32 provisions, but not a closed shop. If an agency shop or other union
33 security provision is agreed to, the employer shall enforce any such
34 provision by deductions from the salary of bargaining unit faculty
35 members affected thereby and shall transmit such funds to the employee
36 organization or to the depository designated by the employee
37 organization. The amount of the funds collected under a union security

1 provision shall not exceed a pro rata share of expenditures for
2 purposes germane to the collective bargaining process, contract
3 administration, or for matters affecting wages, hours, and other
4 conditions of employment. Determination of the pro rata share shall be
5 documented for the nonmember using historical data.

6 (3) A faculty member who is covered by a union security provision
7 and who asserts a right of nonassociation based on bona fide religious
8 tenets or teachings of a church or religious body of which such faculty
9 member is a member shall pay to a nonreligious charity or other
10 charitable organization an amount of money equivalent to the periodic
11 dues and initiation fees uniformly required as a condition of acquiring
12 or retaining membership in the exclusive bargaining representative.
13 The charity shall be agreed upon by the faculty member and the employee
14 organization to which such faculty member would otherwise pay the dues
15 and fees. The faculty member shall furnish written proof that such
16 payments have been made. If the faculty member and the employee
17 organization do not reach agreement on such matter, the dispute shall
18 be submitted to the commission for determination.

19 **Sec. 5.** RCW 41.59.100 and 1975 1st ex.s. c 288 s 11 are each
20 amended to read as follows:

21 A collective bargaining agreement may include union security
22 provisions including an agency shop, but not a union or closed shop.
23 If an agency shop provision is agreed to, the employer shall enforce it
24 by deducting from the salary payments to members of the bargaining unit
25 the dues required of membership in the bargaining representative, or,
26 for nonmembers thereof, (~~a fee equivalent to such dues~~) an agency
27 shop fee. The amount of the funds collected under a union security
28 provision shall not exceed a pro rata share of expenditures for
29 purposes germane to the collective bargaining process, contract
30 administration, or for matters affecting wages, hours, and other
31 conditions of employment. Determination of the share of the fee shall
32 be documented for the nonmember using historical data. All union
33 security provisions must safeguard the right of nonassociation of
34 employees based on bona fide religious tenets or teachings of a church
35 or religious body of which such employee is a member. Such employee
36 shall pay an amount of money equivalent to regular dues and fees to a
37 nonreligious charity or to another charitable organization mutually

1 agreed upon by the employee affected and the bargaining representative
2 to which such employee would otherwise pay the dues and fees. The
3 employee shall furnish written proof that such payment has been made.
4 If the employee and the bargaining representative do not reach
5 agreement on such matter, the commission shall designate the charitable
6 organization.

7 **Sec. 6.** RCW 41.80.100 and 2002 c 354 s 311 are each amended to
8 read as follows:

9 (1) A collective bargaining agreement may contain a union security
10 provision requiring as a condition of employment the payment(~~(, no~~
11 ~~later than the thirtieth day following the beginning of employment or~~
12 ~~July 1, 2004, whichever is later,)) of an agency shop fee to the
13 employee organization that is the exclusive bargaining representative
14 for the bargaining unit in which the employee is employed. The amount
15 of the fee shall be (~~equal to the amount required to become a member~~
16 ~~in good standing of the employee organization. Each employee~~
17 ~~organization shall establish a procedure by which any employee so~~
18 ~~requesting may pay a representation fee)) no greater than the part of
19 the membership fee that represents a pro rata share of expenditures for
20 purposes germane to the collective bargaining process, to contract
21 administration, or to pursuing matters affecting wages, hours, and
22 other conditions of employment. Determination of the share of the fee
23 shall be documented for the nonmember using historical data.~~~~

24 (2) An employee who is covered by a union security provision and
25 who asserts a right of nonassociation based on bona fide personally
26 held religious beliefs or tenets, or teachings of a church or religious
27 body of which the employee is a member, shall(~~(, as a condition of~~
28 ~~employment, make payments to the employee organization, for purposes~~
29 ~~within the program of the employee organization as designated by the~~
30 ~~employee that would be in harmony with his or her individual~~
31 ~~conscience. The amount of the payments shall be equal to the periodic~~
32 ~~dues and fees uniformly required as a condition of acquiring or~~
33 ~~retaining membership in the employee organization minus any included~~
34 ~~monthly premiums for insurance programs sponsored by the employee~~
35 ~~organization. The employee shall not be a member of the employee~~
36 ~~organization but is entitled to all the representation rights of a~~
37 ~~member of the employee organization)) have his or her right~~

1 accommodated either by the reduction or waiver of the representation
2 fees, or by paying to a nonreligious charity or other charitable
3 organization an amount of money equivalent to the agency shop fee.

4 (3) Upon filing with the employer the written authorization of a
5 bargaining unit employee under this chapter, the employee organization
6 that is the exclusive bargaining representative of the bargaining unit
7 shall have the exclusive right to have deducted from the salary of the
8 employee an amount equal to the fees and dues uniformly required as a
9 condition of acquiring or retaining membership in the employee
10 organization. The fees and dues shall be deducted each pay period from
11 the pay of all employees who have given authorization for the deduction
12 and shall be transmitted by the employer as provided for by agreement
13 between the employer and the employee organization.

14 (4) Employee organizations that before July 1, 2004, were entitled
15 to the benefits of this section shall continue to be entitled to these
16 benefits.

17 **Sec. 7.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to read
18 as follows:

19 A collective bargaining agreement may include union security
20 provisions including an agency shop, but not a union or closed shop.
21 If an agency shop provision is agreed to, the employer shall enforce it
22 by deducting from the salary payments to members of the bargaining unit
23 the dues required of membership in the bargaining representative, or,
24 for nonmembers thereof, a fee equivalent to (~~such dues~~) a pro rata
25 share of expenditures for purposes germane to the collective bargaining
26 process, contract administration, or for matters affecting wages,
27 hours, and other conditions of employment. Determination of the share
28 of the fee shall be documented for the nonmember using historical data.
29 All union security provisions shall safeguard the right of
30 nonassociation of employees based on bona fide religious tenets or
31 teachings of a church or religious body of which such employee is a
32 member. Such employee shall pay an amount of money equivalent to
33 regular dues and fees to a nonreligious charity or to another
34 charitable organization mutually agreed upon by the employee affected
35 and the bargaining representative to which such employee would
36 otherwise pay the dues and fees. The employee shall furnish written

1 proof that such payment has been made. If the employee and the
2 bargaining representative do not reach agreement on such matter, the
3 commission shall designate the charitable organization.

4 **Sec. 8.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read
5 as follows:

6 (1) Upon the written authorization of an individual provider, a
7 family child care provider, or an adult family home provider within the
8 bargaining unit and after the certification or recognition of the
9 bargaining unit's exclusive bargaining representative, the state as
10 payor, but not as the employer, shall, subject to subsection (3) of
11 this section, deduct from the payments to an individual provider, a
12 family child care provider, or an adult family home provider the
13 monthly amount of dues as certified by the secretary of the exclusive
14 bargaining representative and shall transmit the same to the treasurer
15 of the exclusive bargaining representative.

16 (2) If the governor and the exclusive bargaining representative of
17 a bargaining unit of individual providers, family child care providers,
18 or adult family home providers enter into a collective bargaining
19 agreement that:

20 (a) Includes a union security provision authorized in RCW
21 41.56.122, the state as payor, but not as the employer, shall, subject
22 to subsection (3) of this section, enforce the agreement by deducting
23 from the payments to bargaining unit members the dues required for
24 membership in the exclusive bargaining representative, or, for
25 nonmembers thereof, ~~((a fee equivalent to the dues))~~ an agency shop
26 fee. The amount of the funds collected under a union security
27 provision shall not exceed a pro rata share of expenditures for
28 purposes germane to the collective bargaining process, contract
29 administration, or for matters affecting wages, hours, and other
30 conditions of employment. Determination of the share of the fee shall
31 be documented for the nonmember using historical data; or

32 (b) Includes requirements for deductions of payments other than the
33 deduction under (a) of this subsection, the state, as payor, but not as
34 the employer, shall, subject to subsection (3) of this section, make
35 such deductions upon written authorization of the individual provider,
36 family child care provider, or adult family home provider.

1 (3)(a) The initial additional costs to the state in making
2 deductions from the payments to individual providers, family child care
3 providers, and adult family home providers under this section shall be
4 negotiated, agreed upon in advance, and reimbursed to the state by the
5 exclusive bargaining representative.

6 (b) The allocation of ongoing additional costs to the state in
7 making deductions from the payments to individual providers, family
8 child care providers, or adult family home providers under this section
9 shall be an appropriate subject of collective bargaining between the
10 exclusive bargaining representative and the governor unless prohibited
11 by another statute. If no collective bargaining agreement containing
12 a provision allocating the ongoing additional cost is entered into
13 between the exclusive bargaining representative and the governor, or if
14 the legislature does not approve funding for the collective bargaining
15 agreement as provided in RCW 74.39A.300, 41.56.028, or 41.56.029, as
16 applicable, the ongoing additional costs to the state in making
17 deductions from the payments to individual providers, family child care
18 providers, or adult family home providers under this section shall be
19 negotiated, agreed upon in advance, and reimbursed to the state by the
20 exclusive bargaining representative.

21 (4) The governor and the exclusive bargaining representative of a
22 bargaining unit of family child care providers may not enter into a
23 collective bargaining agreement that contains a union security
24 provision unless the agreement contains a process, to be administered
25 by the exclusive bargaining representative of a bargaining unit of
26 family child care providers, for hardship dispensation for license-
27 exempt family child care providers who are also temporary assistance
28 for needy families recipients or WorkFirst participants.

29 **Sec. 9.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each
30 amended to read as follows:

31 A collective bargaining agreement may:

32 (1) Contain union security provisions: PROVIDED, That nothing in
33 this section shall authorize a closed shop provision: PROVIDED
34 FURTHER, That agreements involving union security provisions must
35 safeguard the right of nonassociation of public employees based on bona
36 fide religious tenets or teachings of a church or religious body of
37 which such public employee is a member. Such public employee shall pay

1 an amount of money equivalent to regular union dues and initiation fee
2 to a nonreligious charity or to another charitable organization
3 mutually agreed upon by the public employee affected and the bargaining
4 representative to which such public employee would otherwise pay the
5 dues and initiation fee. The amount of the funds collected under a
6 union security provision shall not exceed a pro rata share of
7 expenditures for purposes germane to the collective bargaining process,
8 contract administration, or for matters affecting wages, hours, and
9 other conditions of employment. Determination of the share of the fee
10 shall be documented for the nonmember using historical data. The
11 public employee shall furnish written proof that such payment has been
12 made. If the public employee and the bargaining representative do not
13 reach agreement on such matter, the commission shall designate the
14 charitable organization. When there is a conflict between any
15 collective bargaining agreement reached by a public employer and a
16 bargaining representative on a union security provision and any
17 charter, ordinance, rule, or regulation adopted by the public employer
18 or its agents, including but not limited to, a civil service
19 commission, the terms of the collective bargaining agreement shall
20 prevail.

21 (2) Provide for binding arbitration of a labor dispute arising from
22 the application or the interpretation of the matters contained in a
23 collective bargaining agreement.

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